

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Speier Analyst: Roger Lackey Bill Number: SB 42

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 03-10-99

Attorney: Doug Bramhall Sponsor:

**SUBJECT:** Eliminate Minimum Franchise Tax/Reduce 10% a year until \$0

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 7, 1998, STILL APPLIES.

☒ OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that the \$800 minimum franchise tax would be reduced by 10% (\$80) for each income year beginning on or after January 1, 1999, and would be reduced by 10% (\$80) for each succeeding nine income years until no minimum franchise tax is imposed thereafter.

In addition, this bill would reduce the prepayment to the Secretary of State for qualified new corporations from \$300 to \$0.

### SUMMARY OF AMENDMENT

The March 10, 1999, amendments eliminated the earlier provisions of the bill that would have repealed the minimum franchise tax and the prepayment to the Secretary of State. Instead, the amendments would reduce the minimum franchise tax, including the reduced minimum franchise tax for "qualified new corporations," by 10% for each income year beginning on or after January 1, 1999, until the minimum franchise tax was \$0.

In addition, the amendments would reduce the prepayment to the Secretary of State for qualified new corporations from \$300 to \$0, for income years beginning on or after January 1, 2000. The amendments also added language regarding General Fund revenue forecasting. This analysis will not address this language as it does not impact the department.

The Effective Date, Legislative History, Program History/Background, the existing law discussion in Specific Findings, and Position in the department's analysis of SB 42 as introduced December 7, 1998, still apply. Additional Specific Findings have been provided below, as well as new Implementation Considerations and Revenue Estimate.

#### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 3/18/1999

### SPECIFIC FINDINGS

**This bill** would reduce the minimum franchise tax, including the reduced minimum franchise tax of \$500 for "qualified new corporations," by 10% for each income year beginning on or after January 1, 1999, and would continue to reduce the minimum franchise tax for the following nine income years until the minimum franchise tax was \$0.

**This bill** would provide that once the minimum franchise tax is reduced to \$0, no minimum franchise tax would be imposed for any income year thereafter.

Also, **this bill** for income years beginning on or after January 1, 2000, would reduce the prepayment to the SOS from \$300 to \$0.

### Implementation Considerations

It is the author's intent that this bill reduce the minimum franchise tax, including the reduced minimum franchise tax of \$500 paid by "qualified new corporations," by 10% for each income year beginning on or after January 1, 1999, and that the minimum franchise tax be reduced by that same amount (\$80 or \$50 for the reduced minimum franchise tax) for each of the nine following income years. However, the bill as written may be read as providing that the minimum franchise tax for each income year be reduced by 10% of the amount for each previous income year. As a result, this bill may not reflect the author's true intent.

Also, it is the author's intent that this bill reduces the annual fee paid by limited partnerships, limited liability partnerships, and limited liability companies. This fee by reference is \$800, the same amount of the minimum franchise tax, but because of the nature of the reference to minimum franchise tax section, the current version of this bill would not reduce the annual tax for these entities. Therefore, this bill would need additional amendments to provide for the author's intent.

Department staff is available to assist the author with drafting amendments for the implementation concerns above.

Because reducing the minimum franchise tax would apply to income years beginning on or after January 1, 1999, refunds would need to be made to any banks or corporations that have already paid the minimum franchise tax. Processing refunds would be a minor impact to the department which could be avoided by specifying an operative dated of January 1, 2000.

By reducing the minimum franchise tax by 10% for 10 successive years, this bill would require the department to make repeated changes to forms, computer programs, etc. However, these changes could be incorporated in each year's annual updates.

The amendments addressing the prepayment to the SOS provide for a payment of \$800 on the due date of its return if a corporation's gross receipts exceed the amounts specified. This bill does not parallel the stepped reductions provided by the bill in the minimum tax section.

Department staff is available to assist the author with clarifying that the taxpayer would be liable for the minimum tax in effect during the income year of the determination.

#### Tax Revenue Estimate

The revenue estimate provided is based on the author's intent that the minimum franchise tax and annual fees would be reduced by 10% (\$80 for the minimum franchise tax or \$50 for the \$500 reduced minimum franchise tax paid by "qualified new corporations") for taxable years beginning on or after January 1, 1999, and before January 1, 2000, and further reduced by those same amount annually for the following nine years until the minimum franchise tax would be \$0.

The revenue losses under the Bank and Corporation Tax Law are estimated as follows:

Effective With Income Years Beginning on or After January 1, 1999 Assumed Enactment After June 30, 1999 Fiscal Year (in millions)									
1999-0	2000-1	2001-2	2002-3	2003-4	2004-5	2005-6	2006-7	2007-8	2008-9
(\$85)	(\$100)	(\$135)	(\$170)	(\$210)	(\$250)	(\$280)	(\$320)	(\$350)	(\$365)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

#### Revenue Estimate Discussion

Revenue losses would depend on the number of corporations (including limited partnerships and limited liability companies) subject to the minimum tax each year.

It is projected that for income years beginning in 1999 approximately 400,000 corporations (including subsidiaries) and approximately 85,000 limited partnerships and limited liability companies would benefit from the minimum tax reduction. Estimates above also include the repeal of the \$300 Secretary of State fee at the time of incorporating for approximately 17,500 newly formed businesses with less than \$1 million in gross receipts each year.

#### Board Position:

Pending.